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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/602,109	06/23/2003	Kevin R. Manke	2001-IP-004117 U1D1 USA	7240
20558	7590	04/19/2004	EXAMINER	
KONNEKER & SMITH P. C. 660 NORTH CENTRAL EXPRESSWAY SUITE 230 PLANO, TX 75074			JACKSON, ANDRE K	
			ART UNIT	PAPER NUMBER
			2856	

DATE MAILED: 04/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/602,109

Applicant(s)

MANKE ET AL.

Examiner

André K. Jackson

Art Unit

2856

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 28-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 28-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 28,29,31 and 32 are rejected under 35 U.S.C. 102(b) as being anticipated by Ringgenberg et al. (5799733)

Regarding claim 28, Ringgenberg et al. disclose in the patent entitled "Early evaluation system with pump and method of servicing a well" a formation testing apparatus including at least one waste chamber (chamber 46), and at least two packers (20,22,20,24, Figure 1) configured for isolating the formation when set in the wellbore, the at least two packers forming therebetween an annulus extending between the apparatus and the wellbore after the at least two packers are set, the waste chamber being opened in response to pressure in the annulus (Figures 1-3).

Regarding claim 29, Ringgenberg et al. disclose where the waste chamber receives therein wellbore fluid from the annulus when the waste chamber is opened (Figures 1-3).

Regarding claim 31, Ringgenberg et al. disclose a formation testing apparatus including at least one waste chamber, at least one packer configured for isolating the formation when set in the wellbore, and a tubular string disposed above the packer, the waste chamber being opened in response to pressure in an annulus formed between the apparatus and the wellbore after the packer is set, the waste chamber receiving fluid therein after the fluid initially flows into the tubular string at a location thereon disposed above the packer (Figures 1-3).

Regarding claim 32, Ringgenberg et al. disclose where the waste chamber receives therein wellbore fluid from the annulus when the waste chamber is opened (Figures 1-3).

3. Claims 28,29,31 and 32 are rejected under 35 U.S.C. 102(b) as being anticipated by Scott.

Regarding claim 28, Scott discloses in the patent entitled "Drill stem fluid sampler" a formation testing apparatus including at least one waste chamber (container 22,23), and at least two packers (19,17, Figure 1) configured for isolating the formation when set in the wellbore, the at least two packers forming therebetween an annulus extending between the apparatus and the wellbore after the at least two packers are set, the waste chamber being opened in response to pressure in the annulus (Columns 1-3).

Regarding claim 29, Scott discloses where the waste chamber (container 22,23) receives therein wellbore fluid from the annulus when the waste chamber is opened (Figures 1-3).

Regarding claim 31, Scott discloses a formation testing apparatus including at least one waste chamber (container 22,23), at least one packer (19) configured for isolating the formation when set in the wellbore, and a tubular string disposed above the packer, the waste chamber being opened in response to pressure in an annulus formed between the apparatus and the wellbore after the packer is set, the waste chamber receiving fluid therein after the fluid initially flows into the tubular string at a location thereon disposed above the packer (Figures 1-3, Columns 1-3).

Regarding claim 32, Scott discloses where the waste chamber (container 22,23) receives therein wellbore fluid from the annulus when the waste chamber is opened (Figures 1-3, Columns 1-3).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.

Patentability shall not be negated by the manner in which the invention was made.

5. Claims 30 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ringgenberg et al. in view of Christensen (ep0295922).

Regarding claim 30, Ringgenberg et al. do not disclose where there are multiple waste chambers, and wherein there are multiple formations intersected by the wellbore, and further including a module of the apparatus which opens each of the waste chambers in sequence prior to a corresponding one of the formations being tested. However, Christensen discloses where there are multiple waste chambers, and wherein there are multiple formations intersected by the wellbore, and further including a module of the apparatus which opens each of the waste chambers in sequence prior to a corresponding one of the formations being tested (Abstract, Columns 1,2). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ringgenberg et al. to include where there are multiple waste chambers, and wherein there are multiple formations intersected by the wellbore, and further including a module of the apparatus which opens each of the waste chambers in sequence prior to a corresponding one of the formations being tested. By adding this feature the apparatus would be able to secure a multiple samples within different chambers.

Regarding claim 33, Ringgenberg et al. do not disclose where there are multiple waste chambers, and where there are multiple formations intersected by the wellbore, and further comprising a module of the apparatus which opens each of the waste chambers in sequence prior to a corresponding one of the formations being tested. However, Christensen discloses where there are multiple waste chambers, and wherein there are multiple formations intersected by the wellbore, and further including a module of the apparatus which opens each of the waste chambers in sequence prior to a corresponding one of the formations being tested (Abstract, Columns 1,2). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ringgenberg et al. to include where there are multiple waste chambers, and wherein there are multiple formations intersected by the wellbore, and further including a module of the apparatus which opens each of the waste chambers in sequence prior to a corresponding one of the formations being tested. By adding this feature the apparatus would be able to secure a multiple samples within different chambers.

6. Claims 30 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scott in view of Christensen.

Regarding claim 30, Scott does not disclose where there are multiple waste chambers, and wherein there are multiple formations

Intersected by the wellbore, and further including a module of the apparatus which opens each of the waste chambers in sequence prior to a corresponding one of the formations being tested.

However, Christensen discloses where there are multiple waste chambers, and wherein there are multiple formations intersected by the wellbore, and further including a module of the apparatus which opens each of the waste chambers in sequence prior to a corresponding one of the formations being tested (Abstract, Columns 1,2). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Scott to include where there are multiple waste chambers, and wherein there are multiple formations intersected by the wellbore, and further including a module of the apparatus which opens each of the waste chambers in sequence prior to a corresponding one of the formations being tested. By adding this feature the apparatus would be able to secure a multiple samples within different chambers.

Regarding claim 33, Scott does not disclose where there are multiple waste chambers, and where there are multiple formations intersected by the wellbore, and further comprising a module of the apparatus which opens each of the waste chambers in sequence prior to a corresponding one of the formations being tested.

However, Christensen discloses where there are multiple waste

chambers, and wherein there are multiple formations intersected by the wellbore, and further including a module of the apparatus which opens each of the waste chambers in sequence prior to a corresponding one of the formations being tested (Abstract, Columns 1;2). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Scott to include where there are multiple waste chambers, and wherein there are multiple formations intersected by the wellbore, and further including a module of the apparatus which opens each of the waste chambers in sequence prior to a corresponding one of the formations being tested. By adding this feature the apparatus would be able to secure a multiple samples within different chambers.

Response to Arguments

7. Applicant's arguments with respect to claims 28-30 have been considered but are moot in view of the new grounds of rejection.
8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to André K. Jackson whose telephone number is (571) 272-2196. The examiner can normally be reached on Mon.-Thurs. 7AM-4PM.

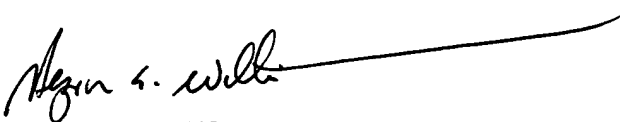
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron Williams can be reached on (571) 272-2208. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2856

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A.J. 

April 12, 2004


HEZRON WILLIAMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800